

FCC MAIL ROOM

FCC FILE COPY DIVISION

Before the
Federal Communications Commission
Washington, D.C. 20554

JUL 12 5 23 AM '04

In the Matter of

Reclassification of License of
StationWSTR(FM), Smyrna, Georgia

RM-10983

ORDER TO SHOW CAUSE**Adopted: July 7, 2004****Released: July 9, 2004**

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a petition for rule making filed by Opelika Broadcasting Company ("Petitioner") seeking to amend the FM Table of Allotments by allotting Channel 232A at Opelika, Alabama, as the community's second local FM transmission service. To accommodate the allotment, Petitioner requests that StationWSTR(FM) at Smyrna, Georgia, be reclassified as a Class C0 facility because it is operating below minimum Class C facilities.¹ Petitioner has also certified, as required, that no other Class A channels are available for allotment to Opelika.²

2. StationWSTRFM) currently operates on Channel 231C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 311 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of greater than 450 meters HAAT with 100 kW ERP. The staff has tentatively concluded that if StationWSTR(FM) operates as a Class C0 facility, any short-spacing between StationWSTR(FM) and the proposed use of Channel 232A at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to licensee of StationWSTR(FM), Smyrna, Georgia, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an *Order to Show Cause* as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Jefferson-Pilot Communications Company of Georgia ("Jefferson-Pilot") to show cause why StationWSTR(FM)'s license should not be modified to specify operation on Channel 231C0 in lieu of Channel 231C at Smyrna. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and

¹ See 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules, 15 FCC Rcd 21,649 (2000) ("*Second Report and Order*"); 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2.

² See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd at 21,662, ¶ 26.

afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.³ In this instance, the reclassification of StationWSTR(FM) as a Class C0 station at Smyrna, Georgia, will accommodate the allotment of Channel 232A, Opelika, Alabama, as proposed by Petitioner. We consider this reclassification proposed by Petitioner to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The license of StationWSTR(FM) at Smyrna, Georgia, can be modified to allow the reclassification of Channel 231C to Channel 231C0 at its currently authorized transmitter site.⁴

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Jefferson-Pilot Communications Company of Georgia, licensee of StationWSTR(FM), Smyrna, Georgia, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 231C0, Smyrna, Georgia.

6. Pursuant to Section 1.87 of the Commission's Rules, Jefferson-Pilot may, no later than, August 23, 2004, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final Order will be issued if the modification is found to be in the public interest. If Jefferson-Pilot chooses to seek authority to modify StationWSTR(FM)'s facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date, August 23, 2004.

7. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Jefferson-Pilot Communications Company of Georgia
Penthouse 1 Capital City Plaza
3350 Peachtree Road, N.E.
Atlanta, Georgia 30326

James R. Hayes, Esq.
Wiley, Rein & Fielding, LLP
1776 K Street, N.W.
Washington, D.C. 20006

³ See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

⁴ The reference coordinates for Channel 231C0 at Smyrna are 33-45-35 North Latitude and 84-20-07 West Longitude.

8. For further information on this proceeding, contact Sharon P. McDonald, Media Bureau
(202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau